

BY 
DEPUTY CLERK

ORDINANCE NO. 2012- 2

SEMINOLE COUNTY, FLORIDA

AN ORDINANCE OF SEMINOLE COUNTY, FLORIDA RELATING TO PAIN
MANAGEMENT CLINICS; ADOPTING FINDINGS; EXTENDING THE
EXISTING MORATORIUM ON THE ISSUANCE OF BUSINESS TAX
RECEIPTS FOR NEW PAIN MANAGEMENT CLINICS AND APPROVALS FOR
ZONING, LAND USE, AND DEVELOPMENT PERMIT REQUESTS;
PROVIDING THAT NO PAIN MANAGEMENT CLINIC MAY LIMIT ITS
BUSINESS TO CASH ONLY; PROVIDING HOURS OF OPERATION FOR
PAIN MANAGEMENT CLINICS; DIRECTING STAFF TO STUDY, ANALYZE
AND REPORT TO THE BOARD ON ISSUES RELATING TO PAIN
MANAGEMENT CLINICS; PROVIDING FOR PENALTIES; PROVIDING FOR
SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 11, 2011, the Seminole County Board of County
Commissioners passed Ordinance 2011-2, which established a temporary
moratorium on the opening of any new pain management clinics in
Seminole County, and also placed operating hour restrictions (from 7
a.m. to 9 p.m. only) and payment option restrictions (no "cash only")
on existing clinics; and

WHEREAS, on September 13, 2011, the Seminole County Board of
County Commissioners passed Ordinance 2011-24, which extended the
moratorium to April 1, 2012; and

WHEREAS, since the moratorium has been in place, the Florida
legislature passed HB 7095, which went into effect on July 1, 2011,
and added many requirements to the existing state regulations on pain
management clinics; and

WHEREAS, rulemaking by the Department of Health intended to
regulate pain management clinics is still not complete; and

WHEREAS, while the state legislation closed many loopholes
related to pain management clinics that were areas of concern for
Seminole County, it is still too early to tell if the legislation is
comprehensive enough to combat the particular problems that prompted

32 the County to pass the moratorium initially; and

34 **WHEREAS**, the illegal distribution of prescription drugs and the
increased crime associated with such activity in Seminole County
relating to prescription drug abuse continues to cause an urgent
36 situation requiring ongoing local regulation to reduce the threat to
the health, safety and welfare of the County's citizens; and

38 **WHEREAS**, under its home rule authority Seminole County can pass
additional legislation to further regulate pain management clinics as
40 long as these additional regulations are not preempted in the law and
are not inconsistent with the statutory provisions; and

42 **WHEREAS**, the Board of County Commissioners intends by this
Ordinance to continue to implement the existing prohibitions and
44 restrictions established by Ordinance 2011-2; and

WHEREAS, the Board feels that it is in the best interest of the
46 citizens of Seminole County to adopt this Ordinance in order to
protect their health, safety, and welfare; and

48 **WHEREAS**, the Seminole County Sheriff's Office believes it is in
the best interest of the citizens of Seminole County to adopt this
50 moratorium; and

WHEREAS, due to exigent circumstances, the requirement for an
52 economic impact statement as set forth in the Seminole County Home
Rule Charter is hereby waived; and

54 **WHEREAS**, this Ordinance has been enacted with a four-fifths vote
of the Board of County Commissioners of Seminole County,

56 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

58 **Section 1. Recitals.** The foregoing "WHEREAS" clauses are hereby
ratified and confirmed as being true and correct and are hereby made a
60 specific part of this Ordinance upon adoption hereof.

Section 2. Moratorium.

62 A. A moratorium shall exist until October 1, 2012, during
which time the Tax Collector shall not issue a new Local Business Tax
64 Receipt to any person for the purpose of engaging in, operating, or
managing a pain management clinic. The Tax Collector is authorized to
66 renew or transfer a Local Business Tax Receipt to a person for the
purpose of engaging in or managing a pain management clinic existing
68 on the effective date of this Ordinance, provided the pain management
clinic is registered with the Florida Department of Health as required
70 by Sections 458.3265 or 459.0137, Florida Statutes.

 B. In addition, a moratorium shall exist until October 1,
72 2012, during which time no approval shall be given on any zoning or
other land use application or development permit request to any person
74 where the proposed use is a pain management clinic.

 C. This moratorium shall expire at midnight on October 1,
76 2012.

Section 3. No Cash Only. During the moratorium established
78 herein, no pain management clinic shall limit patient payment options
to cash only.

80 **Section 4. Hours of Operation.** During the moratorium
established herein, the hours of operation of a pain management clinic
82 shall be limited to 7 a.m. to 9 p.m. of the same day.

Section 5. Staff Report. This moratorium has been established

84 for the minimum time period necessary for the Seminole County
Sheriff's office to analyze the effects and impacts of pain management
86 clinics in Seminole County; analyze the criteria for additional
standards needed, if any, under zoning, land use, land development,
88 and general police power regulations in connection with the issuance
of any development permits, business licenses, business tax receipts,
90 or approvals for pain management clinics within Seminole County;
analyze any new laws regarding pain management clinics enacted by the
92 Florida Legislature; complete an analysis of illegal drug use,
distribution patterns, and other public health, safety and welfare
94 issues that are associated with pain management clinics that dispense
narcotics on site; and, to make recommendations to the Board of County
96 Commissioners regarding whether there is a need to enact an ordinance
regulating pain management clinics so as to better promote the health,
98 safety and general welfare of the citizens of the County.

Section 6. Penalties. Unless otherwise provided herein,

100 violations of this Ordinance shall be punishable in accordance with
Section 1.8 of the Seminole County Code of Ordinances. In addition,
102 the County may bring any other action available at law or equity to
penalize or enjoin violations of this Ordinance.

104 **Section 7. Severability.** If any portion of this Ordinance is for
any reason held or declared to be unconstitutional, inoperative or
106 void, such holding shall not affect the remaining portions of this
Ordinance. If this Ordinance or any provision thereof shall be held to
108 be inapplicable to any person, property, or circumstances, such

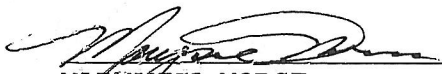
holding shall not affect its applicability to any other person,
110 property or circumstances.

Section 8. Effective Date. This Ordinance shall take effect
112 immediately upon filing with the office of the Florida Secretary of
State.

114 **BE IT ORDAINED** by the Board of County Commissioners of Seminole
County, this 27th day of March, 2012.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA


MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida


BRENDA CAREY, Chairman

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FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

March 29, 2012

Ms. Eva Roach, Deputy Clerk
County Commission Records
Seminole County
1101 East First Street
Room 2204
Sanford, Florida 32771

FILED IN OFFICE
OF THE CLERK OF
THE COUNTY COMMISSION RECORDS
12 APR -4 AM 10:55
CLERK TO B.C.C.
SEMINOLE CO. FL.

Dear Ms. Roach:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 27, 2012 and certified copy of Seminole County Ordinance No. 2012-2, which was filed in this office on March 28, 2012.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

EF 151193886 US

Express Mail #